

The Urgency of *Nominee* Registration in The Capital Market (Comparative Study: United States of America)

Agus Riyanto

Lecturer, Business Law Department
Faculty of Humanities
Bina Nusantara University
Jakarta, Indonesia
agus.riyanto@binus.ac.id

Anita Putri Kinanti

Business Law Department, Faculty of Humanities
Bina Nusantara University
Jakarta, Indonesia
anita.kinanti@binus.ac.id

Abdul Rasyid

Lecturer, Business Law Department
Faculty of Humanities
Bina Nusantara University
Jakarta, Indonesia
arasyyid@binus.edu

Abstract

This paper will discuss the urgency of regulating *nominee* practices in Indonesian regulations. *Nominee* is a name borrowing practice whose existence occurs in various transactions in Indonesia, both in Limited Liability Companies, Foreign Investment, and Capital Market. This practice is carried out by several parties by borrowing second parties, where that second parties will act on his behalf. In Indonesia, the provisions regarding *nominees*, are regulated in several regulations, namely Law No. 40 of 2007 concerning Limited Liability Companies, Law No. 25 of 2007 concerning Investment, and Law No. 8 of 1995 concerning Capital Markets. With the occurrence of the *nominee* practices, then the purpose of this paper is to find out how the legal validity in Indonesia regulates *nominee* practices, and whether the practice is allowed or not allowed to be used by interested parties. The method used in this research is normative juridical, which is research that refers to the approach of applicable laws and regulations. The conclusion of this research is that based on the literature review conducted, a *nominee* is prohibited practice in Indonesia because it's contrary to Article 1329 of the Indonesia Civil Code concerning the validity requirement of the agreement, namely admissible cause. Besides contrary to the Civil Code, *nominee* practices are also prohibited in several laws and regulations on Limited Liability Companies, Investment, and also Capital Markets although the regulations are only explicit. In the United States, the *nominee* practices are allowed, with a law regulating it.

Keywords

Nominee, Validity, Agreement, Regulations, Parties.

Biography

Agus Riyanto is a senior lecturer in the Business Law Department, Faculty of Humanities, Bina Nusantara University, Jakarta, Indonesia. Earned his Bachelor of Laws (International Law) from the Faculty of Law, Parahyangan Catholic University (UNPAR), Bandung. Then obtained a Master of Law (LL.M) from the School of Law, University of Technology Sydney (UTS), Australia (Corporate Law). Currently, as a student of the

Doctoral Program in Law (PDIH), Diponegoro University (UNDIP). Has teaching experience since 2003 until now with expertise in the fields of Corporate Law, Capital Market Law and Investment Law.

Anita Putri Kinanti is an undergraduate student at Bina Nusantara University majoring In Business Law Department, Faculty of Humanities, starting 2019. She would love to learn something new which can improve her skill and also her knowledge and the most important thing is to improve her career and capability in the future. During college, she was involved in voluntary events as a Freshmen Leader and Freshmen Partner (Mentor) for new students in First Year Program 2024, held by Bina Nusantara University. Currently, she has a high interest in learning about capital market law. In order to support her interest, she has participated in several experiences such as writer at Business Law National Conference, and as a finalist in Paper Presentation Competition on Hafni Sjahruddin Cup held by University of Indonesia. She has just finished her internship for 5 months at PT Garudafood Putra Putri Jaya Tbk (food and beverage company) in the corporate legal division.

Abdul Rasyid is a senior lecturer in the Business Law Department, Faculty of Humanities, Bina Nusantara University, Jakarta, Indonesia. Completed his undergraduate degree at the Sharia Faculty of UIN Imam Bonjol Padang majoring in Ahwal Syakhsiyah in 2002, graduating in 3.5 years with a cum laude predicate. He then completed his master and doctoral studies at the Faculty of Law, International Islamic University Malaysia (IIUM) in 2005 and 2013 with a concentration in sharia business law. Lecturer at the 2014 Tazkia Islamic Institute, and since 2015 has worked as a permanent lecturer (faculty member) at the Department of Business Law, Bina Nusantara University, Jakarta and teaches several subjects including: Islamic law; sharia business law; banking and finance law; legal research methods and legal aspects in economics.